

REMARKS

Claims 71-89 are pending in the above-identified patent application. Claim 79 has been amended by way of the present amendment. Reconsideration is respectfully requested.

In the outstanding Office Action, claims 71-89 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,794,207 (Walker et al.) in view of the taking Official Notice. Reconsideration is respectfully requested.

35 U.S.C. § 103 Claim Rejections

Claims 71-89 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker et al. in view of Official Notice. Reconsideration is respectfully requested.

Walker et al. discloses an invention that is a method and apparatus for effectuating bilateral buyer-driven commerce that allows prospective buyers of goods and services to communicate a binding purchase offer globally to potential sellers, for sellers conveniently to search for relevant buyer purchase offers, and for sellers potentially to bind a buyer to a contract based on the buyer's purchase offer.¹ In particular, as shown in **FIG. 2** below, Walker et al. discloses a central controller **200** that includes central processor (CPU) **205**, cryptographic processor **210**, RAM **215**, ROM **220**, payment processor **230**, clock **235**, operating system **240**, network interface **245**, and data storage device **250**.

However, Walker et al. nowhere discloses as claim 71 recites:

first dealing processing means for executing a first sale by pre-engagement, when said buying information received from said buyer's terminal devices and stored in said storage means is transmitted to said seller's terminal devices and subscription information for said transmitted buying information is received from said seller's terminal devices, based on said buying information and said subscription information;

¹ Walker et al. at ABSTRACT.

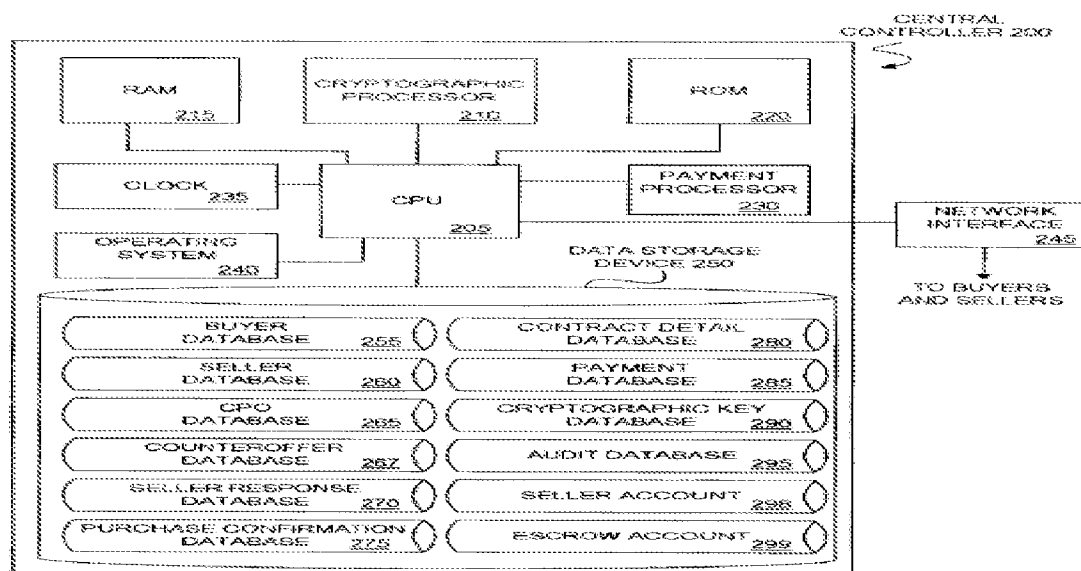


FIG. 2

second dealing processing means for executing a second sale by pre-engagement, when said selling information received from said seller's terminal devices and stored in said storage means is transmitted to said buyer's terminal devices, and buying registration information for said transmitted selling information is received from said buyer's terminal devices, based on said selling information and said buying registration information; and

third dealing processing means for executing a third sale by pre-engagement, when buying conditions of said buying information received from said buyer's terminal devices and stored in said storage means and selling conditions of said selling information received from said seller's terminal devices and stored in said storage means agree with each other (emphasis added).

That is, as discussed above and in particular, as emphasized in the **Abstract**, Walker et al. discloses a buyer-driven system. In contrast, the claimed invention recites a goods dealing apparatus integrated into one invention that features the following three dealing types of: (1) "*first dealing processing*," where the seller side sells in response to the buying information received from buyers; (2) "*second dealing processing*," where the buyer side purchases in response to the selling information received from sellers; and (3) "*third dealing processing*," where both the buying information received from buyers and the selling information received from sellers is utilized.

Further, in the “first dealing processing” type, buyers submit information beforehand about what they want to purchase in the future and sellers respond to the information from buyers. That is, since buyers can purchase goods on condition they wish, the “first dealing processing” type is according to buyer’s side.

Furthermore, in the “second dealing processing” type, sellers submit information beforehand about what they want to sell in the future and buyers respond to the information from sellers. That is, since sellers can sell goods on condition they wish, the “second dealing processing” type is according to seller’s side.

Moreover, in the “third dealing processing” type, buyers and sellers submit information beforehand about what they want to buy and sell in the future, respectively; and goods are merchandised based on conditions on which both the buyer and seller agree. That is, if the buyers want to set a purchase price, they input buying information to the “first dealings processing” and/or “third dealings processing” types. Alternatively, if buyers just want to purchase something regardless of price, they input buying information to the “second dealings processing” type. It is noted that the seller’s cases is the compliment of the situation discussed above.

Thus, in consideration of the above-discussion, the invention of claim 71 allows one to realize the recited: “first dealing processing,” “second dealing processing” and “third dealing processing” types in one invention where both sellers and buyers can choose to enable sellers to expand a sales chance and enable buyers to raise the purchase probability of goods.

Thus, though Walker et al. may be understood to *suggest* the “first dealing processing” type, it is respectfully submitted that Walker et al. nowhere discloses either the “second dealing processing” or “third dealing processing,” as disclosed in claim 71 and discussed above. Moreover, in considering **FIG. 2** and even **FIGs. 5-12** of Walker et al., it is respectfully submitted that only the “first dealing” type is disclosed.

Further, it is respectfully submitted that similar arguments to those discussed above can be made regarding the differences of claims 77, 78, 80 and 82, with respect to Walker et al. Furthermore, with respect to claims 75, 76 and 81, as discussed above, Walker et al. nowhere

discloses each of the three dealing processing means nor the information transmitted and received in the same invention.

Moreover, Walker et al. does not disclose, as claim 75 recites:

first clustering means for clustering pieces of selling information according to goods attributes included in said selling information,

second clustering means for clustering pieces of buying information according to goods attributes included in said buying information

That is, Walker et al. does not disclose “clustering of pieces” of either “selling” or “buying” information “according to goods attributes.”

Further, claim 79 has been amended to recite:

[A] goods dealing apparatus for buying and selling goods by pre-engagement connected to plural seller's terminal devices and plural buyer's terminal devices through a computer network, the apparatus comprising:

first storage means for storing selling information and addresses of sellers received from said plural seller's terminal devices and buying information and addresses of buyers received from said plural buyer's terminal devices;

second storage means for storing information on distribution costs between two points in accordance with a quantity of shipment; and

transmitting means for, in response to a request for obtaining selling information received from said buyer's terminal devices, obtaining plural pieces of selling information, plural addresses of sellers and plural addresses of buyers from said first storage means, and obtaining plural pieces of information on distribution costs from said second storage means, calculating the total amounts including distribution costs corresponding to plural pieces of selling information based on said plural pieces of selling information obtained from said first storage means and said plural pieces of information on distribution costs obtained from said second storage means, and then transmitting the calculated total amounts to said buyer's terminal devices and then transmitting said plural pieces of selling information obtained from said first storage

~~means and said plural pieces of information on distribution costs
obtained from said second storage means to said buyer's terminal
devices.~~

Support for the amendment is provided by the original disclosure and figures of the application. Moreover, claim 79 does not provide buyers and/or sellers with mere distribution cost tables, but it does provide buyers with the total amount including distribution costs corresponding to plural pieces of selling information of sellers. Accordingly, buyers can grasp easily which seller shows the minimum cost. Thus, based on the above discussion it is respectfully submitted that Walker et al. does not disclose the claimed invention.

In addition, the outstanding Office Action acknowledges deficiencies in Walker et al. and repeatedly attempts to overcome these deficiencies by combining Walker et al. with taking Official Notice. First, MPEP Section 2144.03 (C) states:

[I]f Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or Not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence

Thus, such a challenge is respectfully submitted by the applicant that each and every one of the Officially Noticed facts are not considered to be common knowledge or well-known in the art. Moreover, it is requested that the next Office Actions include explicit references or other documentary evidence if the rejection is to be maintained and so that detailed counter arguments can be made.

Moreover, it is respectfully submitted that even if Official Notice were found to be proper, Official Notice cannot overcome all of the deficiencies of Walker et al. In particular, Official Notice nowhere discloses as claim 71 recites:

first dealing processing means for executing a first sale by pre-engagement, when said buying information received from said buyer's terminal devices and stored in said storage means is transmitted to said seller's terminal devices and subscription information for said transmitted buying information is received from said seller's terminal devices, based on said buying information and said subscription information;

second dealing processing means for executing a second sale by pre-engagement, when said selling information received from said seller's terminal devices and stored in said storage means is transmitted to said buyer's terminal devices, and buying registration information for said transmitted selling information is received from said buyer's terminal devices, based on said selling information and said buying registration information; and

third dealing processing means for executing a third sale by pre-engagement, when buying conditions of said buying information received from said buyer's terminal devices and stored in said storage means and selling conditions of said selling information received from said seller's terminal devices and stored in said storage means agree with each other (emphasis added).

In contrast, to the multiple claims of Official Notice, the claimed invention recites a goods dealing apparatus integrated into one invention that features the following three dealing types of: (1) "*first dealing processing*," where the seller side sells in response to the buying information received from buyers; (2) "*second dealing processing*," where the buyer side purchases in response to the selling information received from sellers; and (3) "*third dealing processing*," where both the buying information received from buyers and the selling information received from sellers is utilized. Thus, in consideration of the above-discussion, the invention of claim 71 allows one to realize the recited: "first dealing processing," "second dealing processing" and "third dealing processing" types in one invention where both sellers and buyers can choose to enable sellers to expand a sales chance and enable buyers to raise the purchase probability of goods.

Thus, it is respectfully submitted that Official Notice nowhere discloses "first dealing processing," "second dealing processing" and "third dealing processing," as disclosed in claim 71 and discussed above. Further, it is respectfully submitted that similar arguments to those discussed above can be made regarding the differences of claims 77, 78, 80 and 82, with respect to Official Notice. Furthermore, with respect to claims 75, 76 and 81, as discussed above, Official Notice nowhere discloses each of the three dealing processing means nor the information transmitted and received in the same invention.

Moreover, Official Notice. does not disclose, as claim 75 recites:

first clustering means for clustering pieces of selling information according to goods attributes included in said selling information,

second clustering means for clustering pieces of buying information according to goods attributes included in said buying information

That is, Official Notice does not disclose “clustering of pieces” of either “selling” or “buying” information “according to goods attributes.” Thus, based on the arguments above, Official Notice cannot overcome all of the deficiencies of Walker et al. Therefore, it is respectfully submitted that neither Walker et al. nor the taking of Official Notice, whether taken individually or combined, cannot overcome the claimed invention and thus, claims 71-89 patentably distinguish thereover.

Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes a fee is due with this response which includes a Petition for a three-month Extension of Time. Please charge our Deposit Account No. 22-0185, under Order No. 21776-00050-US from which the undersigned is authorized to draw.

Dated: February 11, 2008

Respectfully submitted,

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